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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/600,806

06/19/2003

Thomas R. Herren

10001-001

6812

22252 7590 09/19/2008

PLAGER LAW OFFICES

16152 BEACG BLVD.

SUITE 207

HUNTINGTON BEACH, CA 92647

EXAMINER

A, PHI DIEU TRAN

ART UNIT

PAPER NUMBER

3633

MAIL DATE

DELIVERY MODE

09/19/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/600,806	<b>Applicant(s)</b> HERREN, THOMAS R.	
	<b>Examiner</b> PHI D. A	<b>Art Unit</b> 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-24 is/are pending in the application.
- 4a) Of the above claim(s) 5-8, 10, 12, 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9, 11, 13, 16 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cable (4235054) in view of Brady (5127760).

Cable shows a pre-fabricated\_multi-purpose construction panel comprising: a plurality of parallel vertical stud members (40) of generally equal length possessing a first terminal end and a second terminal end; at least one reinforcement member(55)\_located between each stud member whereby said panel can support excessive loads due to weight, wind, or sheer forces; and a panel frame (22, 41, 30) attached to said parallel stud members.

Cable does not show the frame comprising one or more horizontal or vertical expansion-contracting means slideably attached to the stud members, whereby said panel will be able to expand or contract in respect to horizontal or vertical environmental forces and, expanded or reduced to fit within a space without disassembling or cutting said assembly without disassembling or cutting said assembly.

Brady shows a horizontal expansion contraction means slideably attached to the stud members.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Cable's structure to show the frame comprising one or more horizontal

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expansion-contracting means slideably attached to the stud members since it allows for the studs to move vertically in response to environmental force as taught by Brady.

Cable as modified shows all the claimed structural limitations and able to function as claimed.

3. Claim 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cable (4235054) in view of Brady (5127760) as applied to claim 1 above and further in view of Thomas (1960961).

Cable as modified shows all the claimed limitations except for another expansion contracting means slideably attached to said second terminal end of said parallel stud members

Thomas shows an expansion contracting means slideably attached to both a first and second ends of a stud member.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Cable's modified structure to another expansion contracting means slideably attached to said second terminal end of said parallel stud members as taught by Thomas since it allows for the studs to move vertically in response to environmental force.

Cable as modified shows all the claimed structural limitations and able to function as claimed.

4. Claims 1, 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cable (4235054) in view of Thomas (1960961).

Cable shows a pre-fabricated\_multi-purpose construction panel comprising: a plurality of parallel vertical stud members (40) of generally equal length possessing a first terminal end and a second terminal end; at least one reinforcement member(55)\_located between each stud member

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whereby said panel can support excessive loads due to weight, wind, or sheer forces; and a panel frame (22, 41, 30) attached to said parallel stud members.

Cable does not show the frame comprising one or more vertical expansion-contracting means slideably attached to the stud members, the vertical expansion contraction means is slideably attached to a vertical end of one or more of the parallel stud members and another slideably attached to a second vertical end of the parallel stud members.

Thomas shows a frame comprising one or more vertical expansion-contracting means slideably attached with other members forming the frame.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Cable's structures to show the frame comprising one or more vertical expansion-contracting means slideably attached to other frame members as taught by Thomas since it allows for the easy attachment of the frame structures together.

Cable as modified by Thomas further shows the means is slideably attached to a first vertical end of said attached to the stud members, the vertical expansion contraction means is slideably attached to a vertical end of one or more of the parallel stud members and another slideably attached to a second vertical end of the parallel stud members, and able to function as claimed.

5. Claims 4, 11, 13, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cable (4235054) in view of Thomas (1960961) as applied to claim 1 above and further in view of Brady.

Cable as modified shows all the claimed limitations except for said vertical and horizontal expansion-contraction means are slideably attached to each other.

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Brady shows a horizontal expansion contraction means attaching to an end of stud members.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Cable's modified structures to show a horizontal expansion contraction means attaching to an end of stud members as taught by Brady since it allows for the studs to move vertically in response to environmental force.

Cable as modified shows said vertical and horizontal expansion-contraction means are slideably attached to each other.

Per claims 11, 13, 23, Cable as modified shows all the claimed structural limitations. The claimed method steps would have been the obvious method steps of constructing Cable's modified panel.

6. Claims 9, 16, 22, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cable (4235054) in view of Brady (5127760) as applied to claim 1 above and further in view of Edeus et al (4021988) and Tellenaar (6705056) and Herren (5189857)

Cable as modified shows all the claimed limitations except for wherein the reinforcement member comprises a box-like structure formed from a pair of complementary unitary elongated metal plate-like members formed of a finite length defined by two parallel upright studs; said unitary elongated metal plate-like member terminates in a first end and a second end; said unitary plate-like member possesses a first horizontal edge and a second horizontal edge between the first end and second end; said first end and second end of the elongated metal plate-like member extend generally upward and perpendicular from the elongated metal plate to form a first flange on said first end and a second flange on said second end to permit the fastening of the

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elongated plate to the surface of the adjacent parallel upright studs; said first end of the elongated metal plate incorporates a pair of parallel notches along the horizontal axis; said first horizontal edge and the second horizontal edge of the elongated plate are folded downward and perpendicular to the elongated plate forming a first downward flange and a second downward flange; and said first downward flange of the first horizontal edge is substantially longer than the second downward flange of the second horizontal edge and the width of first downward flange is greater than the width of said elongated plate-like member.

Edeus et al shows a reinforcement structure (14) comprising a box-like structure formed from a pair of complementary unitary elongated metal plate-like members formed of a finite length defined by two parallel upright studs; said unitary elongated metal plate-like member terminates in a first end and a second end; said unitary plate-like member possesses a first horizontal edge and a second horizontal edge between the first end and second end; said first horizontal edge and the second horizontal edge of the elongated plate are folded downward and perpendicular to the elongated plate forming a first downward flange and a second downward flange; and said first downward flange of the first horizontal edge (26) is substantially longer than the second downward flange of the second horizontal edge and the width of first downward flange is greater than the width of said elongated plate-like member.

Tollenaar shows a first end and second end of the elongated metal plate-like member extend generally upward and perpendicular from the elongated metal plate to form a first flange on said first end and a second flange on said second end to permit the fastening of the elongated plate to the surface of the adjacent parallel upright studs.

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Herren et al discloses the reinforcing member having a pair of parallel notches along the horizontal axis at the first end.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Cable's modified structure to show a reinforcement structure (14) comprising a box-like structure formed from a pair of complementary unitary elongated metal plate-like members formed of a finite length defined by two parallel upright studs; said unitary elongated metal plate-like member terminates in a first end and a second end; said unitary plate-like member possesses a first horizontal edge and a second horizontal edge between the first end and second end; said first horizontal edge and the second horizontal edge of the elongated plate are folded downward and perpendicular to the elongated plate forming a first downward flange and a second downward flange; and said first downward flange of the first horizontal edge (26) is substantially longer than the second downward flange of the second horizontal edge and the width of first downward flange is greater than the width of said elongated plate-like member as taught by Edeus et al in order to form a reinforcing member that is a larger attaching siding area for siding as taught by Edeus et al, having a first end and second end of the elongated metal plate-like member extend generally upward and perpendicular from the elongated metal plate to form a first flange on said first end and a second flange on said second end as taught by Tollenaar in order to permit the fastening of the elongated plate to the surface of the adjacent parallel upright studs, and having the reinforcing member having a pair of parallel notches along the horizontal axis at the first end would enable the proper mounting of the reinforcing member to the studs as taught by Herren.



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Per claim 16, 22, 24, Cable as modified shows all the claimed structural limitations. The claimed method steps would have been the obvious method steps of constructing Cable's modified panel.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-4, 9, 11, 13, 16, 21-24 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different wall constructions.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phi D A/  
Primary Examiner, Art Unit 3633

Phi Dieu Tran A

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